

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

MICHAEL SCHMIDT,

Plaintiff,

-vs-

Case No. 12-C-926

**CAROLYN W. COLVIN,
Acting Commissioner of Social Security,**

Defendant.

DECISION AND ORDER

Michael Schmidt moves to reconsider the Court's judgment, entered on April 17, 2013. This motion was filed more than 28 days after the entry of judgment, so it "automatically becomes a Rule 60(b) motion." *Hope v. United States*, 43 F.3d 1140, 1143 (7th Cir. 1994). A Rule 60(b) motion allows a court to relieve a party from judgment on the narrow grounds of mistake, inadvertence, excusable neglect, newly discovered evidence, fraud, void judgments, or "any other reason that justifies relief." Fed. R. Civ. P. 60(b). Schmidt is not entitled to relief on any of these grounds.

Schmidt also complains that he was not allowed to try his case to a jury, but there is no such right in an appeal from the denial of social security disability benefits. See, e.g., *Parker v. Astrue*, 298 Fed. App'x 701, 702 (10th Cir. 2008); *Ross v. Chater*, 930 F. Supp. 1452, 1454 (D. Kan. 1996) (citing *Ginger v. Sec. of Dep't of H.E.W.*, 621 F.3d 313 (8th Cir. 1980)).

Schmidt's motion [ECF No. 22] is **DENIED**.

Dated at Milwaukee, Wisconsin, this 29th day of May, 2013.

BY THE COURT:


HON. RUDOLPH T. RANDA
U.S. District Judge